

Message

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Sent: 12/2/2020 1:24:42 PM
To: Melvin, Karen [Melvin.Karen@epa.gov]
Subject: FW: Bloomberg Environment (12-2) Biden's Environmental Lawyers Tasked With Bulletproofing Agenda

Deliberative [Recommend change to internal enforcement procedure] Ex. 5

Thoughts?

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Sent: Wednesday, December 02, 2020 7:48 AM
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Subject: FW: Bloomberg Environment (12-2) Biden's Environmental Lawyers Tasked With Bulletproofing Agenda

See highlighted below...

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EPA Enforcement Chief

The EPA's top enforcement lawyer will oversee dramatic policy shifts once Biden takes over, turning the Office of Enforcement and Compliance Assurance, or OECA, into a far more aggressive fighting force, former agency officials said.

"You will see an uptick in both state and federal enforcement," said Burke, the former EPA lawyer in the Trump administration. "There will be a show of force by the federal government, absolutely. There

will be clear, symbolic gestures and aggressive litigation filed to show that the Biden administration means business on enforcement.”

One likely area for tougher enforcement is greenhouse gas emissions, said Patrick Traylor, who was the No. 2 EPA enforcement official under Trump until last year. Those types of cases would match up with Biden’s pledge to reach net-zero emissions by 2050.

The incoming OECA crew also may push for tougher enforcement for less significant infractions—a shift from the Trump administration’s emphasis on letting violators quickly return to compliance over minor cases without triggering formal enforcement, said Traylor, now at Vinson & Elkins LLP.

Another priority will be to crack down on violations that harm environmental justice communities, said King & Spalding LLP lawyer Granta Nakayama, who headed the office in the George W. Bush era.

OECA could do that by making broader use of an EPA environmental justice mapping and screening tool to pinpoint communities for inspections and enforcement, said Alston & Bird LLP lawyer Kevin Minoli, who worked at the EPA from 2000 to 2018 and rose to the position of principal deputy general counsel.

Cynthia Giles, who serves on the Biden EPA transition team and was head of EPA enforcement during the Obama years, said whoever inherits her old job needs to get back to muscular enforcement to send a strong message to the public.

“Enforcement is our commitment to the rule of law made visible,” she said during a recent call arranged by the Climate Action Campaign.

The best way to do that job is to forget about trying to please everyone, said Environmental Integrity Project executive director Eric Schaeffer, an EPA enforcement official in the 1990s.

“The advice I’ve gotten,” he said, “is to pretend this is your last job in Washington.”

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